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SOME

OBSERVATIONS

Concerning the

REGULATING

OF

ELECTIONS

FOR

PARLIAMENT,

FOUND

Among the EARL of *Shaftsbury*'s Papers after his Death, and now recommended to the Consideration of this Present Parliament.

With Allowance.

LONDON:

Printed, and are to be Sold by *Randall Taylor* near *Stationers-Hall.* 1689.

DEPARTMENT OF SCIENCE & ART
FORSTER
BEQUEST
1876

SOME

OBSERVATIONS

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ELECTIONS

FOR

PARLIAMENT, &c.

THE Parliament of *England* is that *Supreme and abſolute Power*, which gives Life and Motion to the *Engliſh* Government. It directs and actuates all its various procedures, is the Parent of our Peace, Defender of our Faith, and Foundation of our Properties; and as the Conſtitution

of this great *Spring*, and *Primum Mobile* of Affairs, is in Strength and Beauty, ſo will alſo all *Acts* and Performances which are derived from it, bear a ſuitable proportion and ſimilitude. For whether the Conſtituting Members of this Great *Body* be *ſuch*, as may give it the denomination of *Sanctum*, *Indoctum* or *Inſanum*, (by which Epithets ſome former Parliaments have been known and diſtinguiſhed) ſuch will alſo be, all the *Acts* and Statutes which are made by them, each naturally wearing the Character and Likeneſs of that, to which it owes its Being.

This Great Council bears a date, coævous perhaps with the Originals of our Government, and was Conſtituted with ſufficient prudence and caution, with relation to the Innocence and Ignorance of the Times and People then in being. It was *then*, that a *Deed* of three Inches ſquare, was ſufficient to convey away twenty good Mannors and Lordſhips. But *Subtilty* and Cunning having now made ſome bolder advances into the World, we are forced to alter our Meaſures, and inſtead of Inches to take Ells. It ſeems therefore neceſſary, as in things of ſmaller concernment, ſo moſt eſpecially in matters of ſo much greater moment, (as is the ſettling and fortifying our Parliament,) ſo to erect its Bulwarks and Rampiers, that the moſt vigorous Attacks of Fraud and Corruption may make no Breaches or Inrodes upon it. It is here, our care and diligence ought to be applyed with the greateſt exactneſs; for as our Laws and Government are Eſtabliſhed, we can derive our Happineſs or Miſery from no other Source. It is from the Fruit of this Great Council that we muſt expect our Nutriment, and from its Branches

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our Protection; I hope therefore it may not ſeem over Officious, if with the skilful Gardiner, I do open and expoſe the Roots of this great Tree of the Common-Wealth, with an intent that every Branch and Fibre may with the greater eaſe and conveniency, be ſo trimmed and laid, that no Defects or Redundancies may continue; But that every individual of this *Great Body*, may happily conſpire to produce that Peace and Tranquillity in the Nation, which may be expected from their Counſels, and a well conſtituted Government.

It ſeems then reaſonable to believe, That the Priviledge of ſending Repreſentatives to Parliament, (though grounded upon a Natural and Fundamental Right in the People) was at firſt immediatly derived from the King; for that, where Hiſtories and Records begin to tranſmit memorials to ſucceeding Ages, we find him ſending his Writs, directed to ſuch Perſons, Towns, or Vills, which he thought moſt conſiderable within the Kingdom, by vertue of which Writs, Elections were accordingly made, and Repreſentatives returned to Parliament. That the Kings Prerogative does ſtill extend to grant this Franchiſe, to ſuch other Towns or Villages as he ſhall think fit, I cannot affirm, becauſe ſome (*a*) Learned in the Law aſſure us it cannot legally be done, but by Act of Parliament. But others are again of a contrary opinion, as was adjudged in the Caſe of (b) *Duncannon* and (c) *Newark*. It is certain, that Parliamentary matters were never ſettled otherwiſe than by Act of Parliament, as

(a) *Pryns* Regiſter of Parliament Writs, 1. Part, f. 238. b.

(*b*) *Hob.* Rep. f. 14.

(*c*) Journal of the Commons Houſe.

appears

(d) 5. R. 2. c. 4. 1. H. 5. c. 1. 23. H. 6. c. 15. (e) 27. H. 8. c. 26. 34. H. 8. c. 13. 35. H. 8. c. 11.

appears by ſeveral (d) Statutes in ſuch Caſes made, and we alſo find the priviledge of ſending Members to Parliament, given to ſeveral places by (e) Act of Parliament, which had been unneceſſary, could the King alone have granted it by any other Method. It is moreover a thing of very dangerous Conſequence, to have ſuch a Power lodged in the King alone; for then he might thereby infranchiſe what number of Vills he pleaſes, and by the ſame power place the Election of their Repreſentatives in a ſelect Number, ſuch as he ſhould always have the power to direct and appoint; which would be in effect to chooſe his own Parliament, and thereby to Make or Repeal what Laws he pleaſes. Wherefore I conceive this Point ought now to be ſo ſettled, as for the future to obviate all ſuch inconveniencies which might otherwiſe enſue.

Another thing, which alſo requires the care of this Great Council, is to limit and reſtrain the exorbitancies of a *Quo Warranto* ſo, that the Electing Burroughs may have their priviledges and immunities ſecured, from the Judgment of a Corrupt Judge, who derives his Being, and holds his Judicial Breath only *ad voluntatem Domini*. If this Grievance be not obviated by ſome good Law, a King may as well deſtroy all the old Burroughs, as erect new ones, to the inevitable overthrow of our Laws and Government.

In the next place I conceive it may become the Prudence of this Parliament (from which we may expect the Foundations of our Happineſs will be ſo laid, as to become

become impregnable againſt all the future Aſſaults of an invading Tyrranny) to look into the Conſtitutions, and Cuſtoms of ſuch Burroughs which have right to Elect, and which in ſeveral particulars, ſeems to require a touch of the Supreme Authority to ſet them Right. The firſt inconvenience they labour under, is the variety of their reſpective Titles; ſome claiming to Elect by Preſcription, others by Grant; ſome again by a ſelect Number, others by the Populacy; ſome by the Magiſtrate and Burgeſſes, others by the Magiſtrate, Burgeſſes and Freemen, others again by the Magiſtrate, Burgeſſes, Freemen, and Commonalty, and ſome alſo in reſpect of their ancient Burrough Houſes only; the reſt of the Town, which is the much more conſiderable part, being excluded. The Grievance which grows from this difference of Title in ſeveral Burroughs, is often ambiguity and uncertainty of Title in the ſame Burrough; for ſometimes the ſelect Number contends with the Community, one Burrough Houſe with another, *&c.* And from hence it is, that we have uſually ſo many Petitioners in each Parliament, the Magiſtrate not knowing which of right ought to be Returned. Nor can a Committee of Elections ever ſettle their reſpective Titles, by a final determinative Judgment; for we find it often giving an Opinion upon one and the ſame Title, and in the ſame Burrough, differently, as favour and power can make the ſtronger intereſt. All this may be remedied by an *Act*, which ſhould give one and the ſame new Title to all the Electing Burroughs in *England* and *Wales*, by which alone, they ſhould all for the future, claim to ſend Members to Parliament; thereby ſettling the Electing power in ſuch perſons, (whether they be a ſelect Number, or

the whole Populace,) as in prudence ſhould be thought moſt convenient.

The deſign of chooſing the Members of Parliament by the People, was, that no Laws ſhould be made, no Monies raiſed, nor any Courſe purſued, by thoſe who ſit at the Helm, but with the Steerage and Direction of the People, by their Repreſentatives. Now by all the Laws and Rules of Repreſentation, no Town, City, or Body of People, can be repreſented without a Vote in the Choice of their Repreſentative. That the Parliament as now Conſtituted, is no equal Repreſentative of the People, is notorious; in that ſeveral Burroughs, ſo inconſiderable, that they contain not above three or four Houſes, ſend each of them two Repreſentatives to Parliament, whilſt others (which contain an hundred times their Number of Houſes, People, Trade and Wealth) have no Repreſentative at all in the management of Publick Affairs. So alſo the County of *Cornwall* ſends no leſs than forty three Members to Parliament, whilſt the City, and whole County of *Cheſter* ſends but four, and the twelve Counties of *Wales* but twenty four amongſt them all.

From this inequality of Repreſentation it follows, that *Acts* are often made which redound to the prejudice of the whole Body of the People, merely to advance the Gain and Advantage of ſome particular places; as was that which Prohibited the Importation of *Iriſh* Cattle, being carried principally by the ſupernumerary Votes of ſome Counties, which have more Electing Burroughs, than upon a juſt and equal Devidend, do fall to their ſhare; and theſe being generally of a dry and barren Soil are thereby chiefly adapted to the breeding of Cattle; which benefit would

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have been diminiſhed by an inlet of Beaſts from *Ireland*. This inconvenience may be eaſily removed by depriving Towns of leſs note of this Franchiſe, and beſtowing it upon others of greater Conſideration in the ſame, or in other Counties, which moſt want it, as do thoſe of *Cambridge*, *Bedford*, *Hartford*, *Huntingdon*, &c.

Where the Electing Right is committed to a ſelect Number, I think it were deſirable, that the Electors ſhould be choſe annually, and not be Tenants for Life in their Electorate; this would in a great degree prevent pre-engagements, and corruption, which often happens where a power by long continuance in one perſon, is apt to ſtagnate and putrifie.

The great number of Electors in *Popular* Burroughs, and in chooſing Knights of the Shire, requires to be regulated and limited, and the power of Election to be fixed in the Optimacy only. My Reaſons for this are, that amongſt the Electing Crowd, the Majority is generally of a mean and abject Fortune in the World, and thereby ſubject not only to diſorders and quarrels, but to be miſguided alſo by their ignorance, and total want of that diſcerning faculty, which Electors in ſuch weighty concerns ought to have: they are moreover under the temptation of being Corrupted and Seduced by the inveiglements of a little Mony, or a Pot of Ale: whilſt thoſe whoſe Circumſtances are more enlarged, have their thoughts ſo likewiſe, being thereby raiſed beyond ſuch low alurements, and rendered more careful how, and into whoſe Hands they diſpoſe of this

great Truſt, the breach whereof might at once Rob and deprive them of that their ſubſtance, which has been the acquiſition perhaps of ſome Ages. It was for theſe and ſeveral other Reaſons mentioned in the Preamble, that by the Statute of the 8. of *H.6.* c. 7. it was enacted that no Knight of the Shire ſhould be choſe by any, who had not a Freehold of the clear yearly value of 40 *s. per annum*, which was then as much in value as 40 *l. per annum* is now, or has been, ſince the finding out of the *American* Treaſure, and the enlargement of our Trade. And I think it but reaſonable that as the value of Mony falls, ſo the Wealth of the Electors ſhould riſe, and that Electing Votes in the County ſhould again be limitted to ſuch only, who now have Lands and Tenements to that value, which 40 *s. per annum* bore in thoſe times when this Act was made. If this particular were thus regulated, the numbers at the County Elections would be reduced, probably to a fourth part of what they now are, and thereby the unreaſonable expence in entertaining ſo great a Crowd, and the great dangers which may accrue from ſuch an ungovernable Multitude, would be in a great degree avoided and prevented.

As the Perſons Electing ought to be Men of Subſtance, ſo in a proportioned degree ought alſo the Members Elected. It is not ſafe to make over the Eſtates of the People in Truſt, to Men who have none of their own, leſt their Domeſtick Indigencies, in Conjunction with a Foreign Temptation, ſhould warp them to a contrary Intereſt, which in former Parliaments we have ſometimes felt to our ſorrow.

Wealth

Wealth and Subſtance will alſo give a Luſtre and Reputation to our great Council, and a ſecurity to the People; for their Eſtates are then pawned, as ſo many Pledges for their good behaviour, becoming thereby equal ſharers themſelves in the benefit or diſadvantage which ſhall reſult from their own Acts and Councils.

Thus a good Eſtate may be a good ſecurity to engage Faith and Honeſty; but he who ſits at the Helm of Government, ought not only to be a Graduate in Fortune, but in Prudence and Experience alſo. To me it ſeems extreamly irregular, to ſee the unfledged Youth make his firſt advances into the World, in the quality of a Burgeſs for Parliament, choſen upon no other account but becauſe it was his Fortune, by his Fathers early death, to become the Landlord of a Neighbouring Burrough, or is perhaps its beſt Cuſtomer, deriving from thence the neceſſaries of a numerous Family. Forty years (whereof twenty five are generally ſpent in Childhood and vanity) ſeem to be few enough to entitle any one to the Grandeur and Gravity of an *Engliſh* Senator, and why ſo many, who ſeem by their greenneſs to be as yet but a Novelty to the World, ſhould be admitted a place in this Great Council, whilſt thoſe of greater Age, Wiſdom, and Experience muſt be excluded, I do not underſtand.

By the 1. *H.* 5. ch. 1. It is Enacted that every Knight of the Shire ſhould be choſen out of ſuch who are Reſident in the County, and every Citizen and Burgeſs, from amongſt the Citizens and Burgeſſes

geſſes of the Cities and Burroughs Electing. How far this Act ought to be obſerved, will be worth conſideration; for a confinement in this Caſe, ſeems to be an abridgement of a free Choice, and it often happens, that Men of the greateſt Knowledge and Experience in the Affairs of the Kingdom, have their Abode principally in the Metropolis, eſpecially ſuch of the long Robe, who by their Profeſſion are obliged to it. But the Non-obſervance of this *Act* on the other ſide, has been often the occaſion that Courtiers have bolted into Country Burroughs, and by the ſtrength of their Purſe, and liberal Baits, have ſo ſeduced theſe poor Rural Animals, as to obtain an Election from them, though to the ruin and overthrow of their own Laws and Liberties. The chooſing of ſuch Men to ſerve in Parliament, might probably be obviated, by an Act, Prohibiting the Expence of any Mony by Treats or otherwiſe, in order to be Elected, it being only to theſe indirect Methods, that ſuch perſons uſually owe their ſucceſs.

But when all is done, it will be found difficult (though with the greateſt Art) to bring an old irregular Structure into a convenient Uniformity, otherwiſe than by razing it to the Ground, and erecting a new Pile by ſome better contrived deſign. For although all the defects and irregularities in the Election of Members for Parliament before-mentioned, ſhould be removed and altered, yet there ſtill remains ſomething in the very Conſtitution of this part of our Government, which is not ſo agreeable to a curious thought. A True and Perfect Model to build by,

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is what I dare not pretend to give, yet that which follows may afford ſome hints and Aſſiſtance to a better Fancy and Judgment.

In reſpect then, that every individual Perſon in the Nation, has a Natural Right to Vote in this Great Council; but this being impracticable, they are forced to do it by proxy (that is) by devolving this Right upon certain Common Repreſentatives indifferently choſen, for certain Select Numbers and Communities of Men, in which the whole Body of the People is, or ought to be comprehended; And whereas, every *Pater-Familias*, or Houſe-Keeper, is a Natural Prince, and is inveſted with an Abſolute Power over his Family, and has by neceſſary Conſequence, the Votes of all his Family, Man, Woman, and Child included in his; Let then the Sheriffs Precepts be directed to every Pariſh within his County, which the next *Sunday* following the Receipt thereof, may be publickly Read after the Forenoon Sermon in Church; Thereby giving notice to all the Houſe-keepers in the Pariſh, to meet at a convenient place, and certain hour the day following, in order to chooſe an Elector for the County. Let alſo the Church-Wardens of each Pariſh prepare a Liſt of eight or ten of the moſt eminent Perſons for Wealth, Gravity, and Wiſdom in their Pariſh; this Liſt to be brought the next day to the place of Election, to this purpoſe, that every Houſe-keeper do, by a dot with a Pen, adjoined to the perſon's name whom he enclines to Elect, declare his Choice; and that by the plurality of dots, the Elector be returned by the Church-wardens to the Sheriff. This done in each Pariſh,

let

let the Sheriff prepare a Liſt in the ſame manner, of the names of all the Gentry in the County, who are each worth in Lands and moveables at leaſt 10000 *l.* all Debts paid, and not under forty years of Age; which being in readineſs, let all the Repreſentatives of Pariſhes, choſen as aforeſaid, repair to the County Town the very next day after the Pariſh Election is over, and there proceed to Elect out of the Sheriffs Liſt, ſeven, nine, or eleven Members to ſerve in Parliament, or ſo many as upon a juſt Dividend, ſhall be thought expedient to compleat the Number of Members, which are to Act in this great Council.

Before the Electors proceed to chooſe for the County, it might probably be convenient to Adminiſter an Oath to this purpoſe, *That their Vote is no way pre-engaged, and that they will chooſe, without Favour or Affection, ſuch Members as in their Conſcience they do believe moſt fit to ſerve in Parliament.* And that to the *Members Elected*, upon their admiſſion to the Houſe, this Oath, together with the others in uſe, be Adminiſtred, *viz. That they are worth* 10000 *l. all their Debts paid, and that directly, or indirectly they did not expend any Mony, or Gratuity whatſoever, in order to their Election, and that they neither have, nor will receive any Gratuity whatſoever, upon the account of their Vote in Parliament, but that they will in all Matters that ſhall come before them, act uprightly according to their Conſcience and Underſtanding, without any private Deſign, Favour, or Affection to any.*

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That, to prevent the inconveniencies of Fear and Favour in Electing, the Method be ſuch, that none may know on whom the Electors Votes were conferred; and it may be thus performed. Suppoſe a Room with two oppoſite Doors, and a Table in the middle, on which the Liſt ſhall be ſpread. All the Electors being at one Door, let them go in one by one, each Writing down his dots, and going out of the Room at the other Door before another comes in; or if this may prove tedious, it is only placing more Tables in the Room with every one a Liſt on it, and ſo many may then be admitted in at once, as there are Liſts, which will make greater diſpatch, and yet no diſcovery, in that every Liſt is upon a ſeparate Table. To prevent alſo all fraud and indirect practice, it will be convenient that the Officers concerned in the Elections, both in Pariſhes, and in the County, be upon their Oaths. It is alſo fit that a limitted allowance be made for the expence of the day, which is to be in Pariſhes, at the Pariſh Charge, and in the County Town, at the Charge of the County.

If any Controverſie ariſe about Elections, either in the Pariſhes or Counties, (which in this Method can ſcarcely be ſuppoſed) it may be decided by the Votes of the remaining Perſons upon the Liſt, who pretend to no Election. If ſeveral Perſons happen to have an equal number of Votes, it ſhall be determin'd by Lott. If any Perſon from any part of *England*, ſhall ſend his Name to any particular County, to be inſerted in their Liſt, as a Perſon qualified to ſerve in Parliament; it may be done; but none to ſtand Candidate, in more

than one List at a time, lest he should be chosen in both Counties, and so occasion the trouble of a new Election. That the same List of Candidates shall continue till the dissolution of the Parliament, if it fits not above three Years; and upon the intermedial death or removal of any of the Members for the County, then he who had the next Majority of Votes upon the List, to succeed in his place, without further trouble or charge of Election.

By this Method the Parliament will be a perfect Representative of the whole Body of the People, and also of every numerical Person in the Kingdom. Here can be no partial (and consequently prejudicial) Acts made by separate Interests and Factions: None will sit in this Great Council but Men of Gravity, Wisdom, Integrity and Substance; No pensionary Members; no unfair Elections; no foul Returns; no Petitioners kept in Attendance till a Dissolution; no *Quo Warrantos* to destroy the natural fundamental Rights of the People; no room for Corruption, Bribery and Debauchery, either in the Electors or the Members elected; no Patrimonies wasted in the Extravagancies of an Election; No Bankrupts shrowding themselves under the shelter of a Parliamentary Privilege; No unruly Rabbles, Tumults, Factions and Disorders in Election, amongst the Commonalty; No Heats and Animosities amongst the Gentry, often caused by their violent Competitions: But all will be managed with that evenness, Justice and Temper, that nothing can more effectually conduce to the securing of our Liberties and Properties, the Grandieur of our Government, and the Honor of our Nation, than such an Establishment.

FINIS.

An Advertiſement.

THere is lately Publiſhed by *Randal Taylor* the Proceedings of the preſent Parliament, juſtified by the Opinion of the moſt Judicious and Learned *Hugo Grotius*, with Conſiderations thereupon; Written for the ſatisfaction of ſome of the Reverend Clergy, and others, who ſeem to labour under ſome Scruples concerning the Original Right of Kings, their Abdication of Empire, and the Peoples inſeparable Right of Reſiſtance, Depoſing, and of Diſpoſing, and Settling of the Succeſſion to the Crown.